

G. R. S. IX-5]

Incomplete.

Previous references.

cls: 3-1872

" 5-1873

" 3-1874

" 4-1875

" 11-1878

Later references.

cls. 11-1879

" 12-1879.

" 3-1881

1879

1879.

(Counts)

File No.

10 879

Serial Nos. 1

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. /

Major ~~Part B~~ for 18th July 1879

SUBJECT.

Authority of the Public Prosecutors
and his relation to the District
Magistrate.

Indecl.

9th July 1879 from the
Judicial Commissioner
forwarding

Order thereon:—

2. The Chief Commissioner, feels some surprise at the question having been raised. The Public Prosecutor when he appears for

Government to prosecute
in a Court of Sessions²²
is in the same position
with relation to his
instructor as an Advocate
instructed by a private
individual is to his client,
and Mr Gordon knows
of no provision of the
law or executive order
of the Government
which could have suggested
any other idea to the
Public Prosecutor or
any one else.

3. The next question is
whether the District
Magistrate can instruct
a person other than the
Public Prosecutor, when
such an officer has been
appointed by Government,
to conduct the prosecution
of a case in the Court
of Sessions. Mr Gordon
understands the proviso
to section 202 of the

1879 ✓
Government of Mysore
General

To The Judicial Commr.
" Commr. of Adm. & Mysore
" District & Sessions Judge
Mundygery Division
" Dy. Commr. of Districts
" Public Prosecutors

Dated 18th July
Sd/- Lt. Col. 1/1
Recd

30 Copies despatched
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1 attached to Draft
18 Reserve
50

N. 3336
2

Or
21

Recd
18-7-79

Passing orders on a letter
from the Dy. Commr. of
Mysore on the subject of
the authority of the Public
Prosecutor & his relation to
the District Magistrate -

Proceedings of the Chief Commissioner, Mysore, General Department,
18th July 1879.

READ—

Letter No. 1334—149, dated 9th July 1879, from Judicial Commissioner, forwarding a letter from the Deputy Commissioner of Tumkur on the subject of the authority of the Public Prosecutor and his relation to the District Magistrate.

No. 3336—2, DATED BANGALORE, 18TH JULY 1879.

~~ORDER THEREON.~~ There are two letters submitted for orders in the above read letter. The first question really arises whether the Public Prosecutor can act entirely on his own responsibility and at his own discretion, or whether he should abide by the instructions given him by the District Magistrate who instructs him to prosecute sessions cases on behalf of Government.

2. The Chief Commissioner feels that the Public Prosecutor when he appears at Sessions is in the same position with a private individual instructed by a private individual is to abide by the instructions of the District Magistrate or of the Executive Order of the Government or any other idea to the Public Prosecutor.

3. The next question is whether any person other than the Public Prosecutor, when appointed by Government, to conduct the prosecution of a case stands the proviso to section 202 of the Criminal Procedure Code which gives the District Magistrate a wide latitude in selecting a person by Government to conduct prosecution, and that the power thus entrusted to the Public Prosecutor.

4. This, however, is a proceeding which is not to be undertaken as a matter of course, but only on special grounds, to be decided by the District Magistrate. The Chief Commissioner desires to be satisfied as to the expediency of appointing a Prosecutor other than the Public Prosecutor in the case which has given rise to the present question.

When a question having been raised, the Public Prosecutor in a Court of Session, an Advocate knows of no provision which would have suggested

an instruct a person appointed by Government. Mr. Gordon undertakes to give the District Magistrate a specially appointed person for the prosecution of particular cases, in exclusion of the Public Prosecutor.

It is suggested that as seldom as possible, the appointment of a Prosecutor other than the Public Prosecutor should be obtained. On special grounds it was considered that the Public Prosecutor in

J. J. CUNNINGHAM,
Secretary.

To—The Judicial Commissioner.
" Commissioners of the Ashtagram and Nundydroog Districts.
" District & Sessions Judge, Nundydroog District.
" Deputy Commissioners of Districts.
" Public Prosecutors.

30 Copies despatched

1 to Record

1 attaches to District Magistrate

18 Reserve

50

3
Criminal Procedure Code
to give the District Magistrate a wide latitude
in selecting officers than
the person specially
appointed by Government
to conduct prosecutions
in general for the
conduct of particular
cases, and that the
power thus entrusted
can be exercised to the
exclusion of the Public
Prosecutor.

4 This, however, is a
proceeding that should
be resorted to as seldom
as possible, and only
on special grounds,
to be recorded and
reported for approval,
and, if time admits,
the previous sanction
of the Chief Commissioner
should be obtained.

The Chief Commissioner
deserves to be informed
on what grounds it
was

considered as peculiar
to appoint a prosecutor
other than the candidate of
Public Prosecutors
in the case which has
given rise to the
present question.

M. Cunningham
Secretary

Rayne printer

To
The Judicial Commissioner
" Commissioners of the
Chittagong & Chakma Div.
" District & Sessions Judge
Chittagong Div.
" Dy. Commissioners
of Districts
" Public Prosecutors.

Ch 16/1/79

1879.

GOVERNMENT OF MYSORE.

GENERAL.

THE JUDICIAL COMMISSIONER.

„ COMMISSIONERS OF ASHTAGRAM
AND NAGAR DIVISIONS.
„ DISTRICT AND SESSIONS JUDGE,
NUNDYDROOG DIVISION.
„ DEPUTY COMMISSIONERS OF DISTRICTS.
„ PUBLIC PROSECUTORS.

July 18th.

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No. 8336.

2.

Passing orders on a letter from the
Duty Commissioner of Tumkūr on the sub-
ject of the authority of the Public Prosecutor
in his relation to the District Magistrate.
